

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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BRENT WISSENBACK,

Plaintiff,

v.

STRATOSPHERE CASINO,

Defendant.

Case No. 3:21-cv-00381-ART-CSD

ORDER

Because Plaintiff Brent Wissenback (“Wissenback”) has not responded to Defendant Stratosphere Casino’s (“Stratosphere”) motion to dismiss, this Court dismisses this action with prejudice without reaching the merits of Stratosphere’s motion to dismiss.

On August 24, 2021, Wissenback filed a Complaint against Stratosphere alleging breach of contract because he had three straight losses at a roulette machine which caused him grief and misery in excess of \$15,000. (ECF No. 1). On September 17, 2021, Stratosphere moved to dismiss for lack of subject matter jurisdiction and failure to state a claim. (ECF No. 5.)

Under LR 7-2, “the deadline to file and serve any points and authorities in response to . . . [a] motion is 14 days after service of the motion.” LR 7-2(b). Accordingly, the deadline for Wissenback to have filed a response to Stratosphere’s Motion to Dismiss was October 10, 2021. Wissenback never filed a response to Stratosphere’s Motion to Dismiss. Over eight months have passed. LR 7-2 further provides, in relevant part, that “[t]he failure of an opposing party to file points and authorities in response to any motion . . . constitutes a consent to the granting of the motion.” LR 7-2(d).

1 Pursuant LR 7-2(b) and 7-2(d), Wissenback has effectively consented to  
2 the granting of Stratosphere's Motion to Dismiss because Wissenback has not  
3 filed an opposition, or any other response, to Stratosphere's pending Motion to  
4 Dismiss.

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6 IT IS THEREFORE ORDERED that Stratosphere's Motions to Dismiss (ECF  
7 No. 5) is GRANTED.

8 IT IS FURTHER ORDERED that this action is dismissed with prejudice.

9 The Clerk of the Court is kindly directed to administratively close this case.

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11 DATED THIS 7<sup>th</sup> Day of July 2022.

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13 ANNE R. TRAUM  
14 UNITED STATES DISTRICT JUDGE  
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